

REMARKS

The above amendments and these remarks are responsive to the Office action dated September 27, 2005. Claims 1-4, 7-15, 17, 18, and 20-24 are pending in the application. In the Office action, claims 18, 20, 23, and 24 are rejected under 35 U.S.C. § 112 as being indefinite; claims 1, 7, 10, 11-15, and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alonso (U.S. Patent No. 3,375,604); and claims 1-4, 7-14, 15, 17, 18, and 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray (U.S. Patent No. 2,587,142) in view of Salosky (U.S. Patent No. 2,803,920) or Sims et al. (U.S. Patent No. 4,176,492).

In view of the amendments above, and the remarks below, applicants respectfully request reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

Rejections Under 35 U.S.C. §112

Claims 18, 20, 23, and 24 are rejected under 35 U.S.C. § 112 as being indefinite. Amended independent claim 18 now recites “a second component in the form of a second portion of a vehicle,” rather than repeating the phrase “a second component” of the vehicle. Applicants thank the Examiner for pointing out this inconsistency and believe the rejection under 35 U.S.C. § 112 should be withdrawn.

Rejections Under 35 U.S.C. §102

Claims 1, 7, 10, 11-15, and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Alonso. Applicants respectfully traverse this rejection, particularly in view of the amendments above. In order to anticipate a claim, a reference must disclose each and every element recited in the claim. *In re Spada*, 911 F.2d 705, 708 (Fed. Cir. 1990).

Applicants respectfully submit that Alonso fails to disclose or suggest an alignment assembly spaced away from the magnetic portion, as recited by amended claim 1. Specifically, the permanent magnet in the form of a disc 112, shown in Fig. 6 of Alonso, “is sleeved over the enlarged portion 108” (col. 3, ll. 40-42). Enlarged portion 108 is therefore not spaced away from magnet 112. Thus, since claim 1 recites at least the aforementioned elements not disclosed by Alonso, the reference does not and cannot anticipate the toy recited in claim 1. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b). Claims 7 and 10 depend from and further limit claim 1 and thus should be allowed when amended claim 1 is allowed.

Applicants respectfully submit that Alonso fails to disclose the subject matter of amended claim 11. Specifically, Alonso fails to disclose or suggest a first component that is adapted to rotate and support at least one wheel, and is magnetically coupled to at least one of the second and third components via a magnetic portion embedded within a pedestal that extends from at least one of the second and third components in a direction non-parallel to an axis of rotation of the first component. In Alonso, the magnet extends parallel to the axis of rotation (col. 3, ll. 36-43). Since amended claim 11 recites at least the aforementioned elements not disclosed by Alonso, the reference does not and cannot anticipate the toy recited in claim 11. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 11 under 35 U.S.C. § 102(b). Claims 13-15 and 17 depend from and further limit claim 11 and thus should be allowed when amended claim 11 is allowed.

Rejections Under 35 U.S.C. §103

Claims 1-4, 7-14, 15, 17, 18, and 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gray in view of Salosky or Sims et al. Applicants respectfully traverse this rejection, particularly in view of the amendments above.

In rejecting these claims, the Office Action generally refers to the references as teaching magnetic toys and toys that may represent vehicles. As noted by the Examiner, Gray fails to teach a magnetic portion affixed to the toy components. In Salosky, the fenders 15 are joined to the vehicle by the coupling of seat 18 with magnet 20 to flange 21 having magnetic plate 23 (Fig. 3; col. 1, ll. 50-65). In Sims et al., a magnet 12 is sandwiched between a pair of plates 14, 16. The magnet engages with a magnetizable ball joint (Fig. 5; col. 2, ll. 52-58).

In determining patentability, “all words of a claim must be considered in judging the patentability of that claim against the prior art,” *In re Wilson*, 424 F.2d 1382, 1385 (see also, MPEP § 2143.03), and the claimed invention as a whole must be considered. Distilling the invention down to a “gist” or “thrust” of the invention disregards the requirement of analyzing the subject matter “as a whole” (MPEP §2141.02).

Applicants respectfully submit that Gray, Salosky, and Sims et al., either individually or in combination, fail to disclose, teach, or suggest a toy including an alignment assembly spaced away from the magnetic portion and adapted to align the first and second components to a predetermined position relative to one another, wherein the alignment assembly includes a post that protrudes from one of the first and second components and an aperture in the other of the first and second components, as recited in amended claim 1. For at least these reasons, applicants respectfully request the withdrawal of the rejection of amended claim 1 under 35 U.S.C. § 103(a). Claims 2-4 and 7-10 depend from and further limit claim 1 and thus should be

allowed when amended claim 1 is allowed.

Similarly, the combination of Gray with Salosky or Sims et al. fails to disclose, teach, or suggest a first component that is adapted to rotate and support at least one wheel, and is magnetically coupled to at least one of the second and third components via a magnetic portion that extends from at least one of the second and third components in a direction non-parallel to an axis of rotation of the first component, as recited in amended claim 11. For at least these reasons, applicants respectfully request the withdrawal of the rejection of claim 11 under 35 U.S.C. § 103(a). Claims 13-15 and 17 depend from and further limit claim 11 and thus should be allowed when amended claim 11 is allowed.


The combination of Gray with Salosky or Sims et al. also fails to disclose, teach, or suggest the toy vehicle of amended claim 18, which includes a first component that may be selectively magnetically attached to a second component and securing a third component in a rotatable configuration, and at least one support mounted to one of the first and second components and adapted to restrict translation of the third rotatable component, wherein the at least one support is a plate adapted to support the third rotatable component a distance away from the first and second components. For at least these reasons, applicants respectfully request the withdrawal of the rejection of amended claim 18 under 35 U.S.C. § 103(a). Claims 20-24 depend from and further limit claim 18 and thus should be allowed when amended claim 18 is allowed.

Applicants believe that this application is now in condition for allowance, in view of the above amendments and remarks. Accordingly, applicants respectfully request that the Examiner issue a Notice of Allowability covering the pending claims. If the Examiner has any questions, or

if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

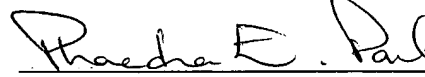
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